the determination to the head of the agency.

(b)(1) Any party whose request for documents has been denied in whole or in part may file an appeal no later than ten (10) working days following receipt of the notification of denial. Appeals must be addressed to the Chairman, National Endowment for the Arts, Washington, DC 20506.

(2) The head of the agency or his delegatee shall make a determination with respect to the appeal within twenty (20) days (excepting Saturdays, Sundays, and legal holidays) after the agency has received the appeal, except as provided in paragraph (c) of this section. If, on appeal, the denial is upheld either in whole or in part, the head of the agency shall notify the party submitting the appeal of the judicial review provisions of 5 U.S.C. 552(a)(4)(B).

(c) In unusual circumstances, the time limits prescribed to determine a request for documents with respect to initial actions or actions on appeal may be extended by written notice from the General Counsel or respective Assistant General Counsel serving as the Freedom of Information Act Officer of the National Endowment for the Arts. The notice shall describe the reason for the extension and the date on which the determination is expected to be made. No notice shall specify a date that would result in an extension of more than ten (10) days (excepting Saturdays, Sundays, and legal holidays). As is used in this paragraph, *unusual circumstances* means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having a substantial subject-matter interest in the request.

§ 1100.6 Fees.

(a) *Categories of fees.* Fees will be charged according to the Category of the FOIA request.

(1) *Commercial use requests.* The agency will assess charges to recover the full direct cost of searching for, reviewing, and duplicating the requested document. The agency may recover the cost of searching for and reviewing records even if there is ultimately no disclosure.

(2) *Requests from educational and noncommercial scientific institutions.* The agency will charge for duplication costs. To qualify for this category the requestor must show: (i) That requested records are being sought under the auspices of a qualified institution as defined in § 1100.1 (e) or (f) of this part; (ii) the records are not sought for commercial use; and (iii) the records are being sought in furtherance of scholarly or scientific research of the institution.

(3) *Requests by representatives of the news media.* The agency will charge duplication costs for the requests in this category.

(4) *All other requests.* All other requests shall be charged fees which, recover the full reasonable cost for searching for and duplicating the requested records.

(b) *General fee schedule.* The agency shall use the most efficient and least costly method to comply with requests for documents made under the FOIA. The agency will charge fees to recover all allowable direct costs incurred. The agency may charge fees for searching for and reviewing requested documents even if the documents are determined to be exempt from disclosure or cannot be located. If search charges are likely to exceed $25, the agency shall notify the requestor, unless the requestor has indicated in advance the willingness to pay higher fees. The following fees shall be charged in accordance with paragraph (a) of this section.

(1) *Searches*—(i) *Manual.* The fee charged will be the salary rate(s) (i.e.,

basic pay plus 16.1 percent) of the employee(s) conducting the search.

(ii) *Computer*. The fee charged will be the actual direct cost of providing the service including the cost of operating the central processing unit for the operating time that is directly attributed to searching for records responsive to a request and the operator/programmer salary apportionable to the search.

(2) *Review*. The fee charged will equal the salary rate(s) (basic pay plus 16.1 percent) of the employee(s) conducting the review.

(3) *Duplication*. Copies of documents photocopied on one-side of a 8½ × 11 inch sheet of paper will be provided at $.10 per page. Photocopies on two sides of a single 8½ × 11 inch sheet of paper will be provided at $.20 per page. For duplication of other materials, the charge will be the direct cost of duplication.

(c) *Restrictions on charging fees*. (1) Except for documents provided in response to a commercial use request, the first 100 pages of duplication or the first two (2) hours of search time shall be provided at no charge. For the purposes of this section, two (2) hours of search time by computer entitles the requestor to two (2) hours of computer operator salary translated into computer search costs. Computer search costs consist of operator salary plus central proceeding unit operating time costs for the duration of the search.

(2) Fees shall not be charged to any requestor, including commercial use requestors, if the cost of collecting a fee would be equal to or greater than the fee itself.

(d) *Waiver or reduction of fees*. (1) Documents shall be furnished without charge or at reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor.

(2) The following factors shall be used to determine whether a fee will be waived or reduced:

(i) *The subject of the request*. Whether the subject of the requested records concerns ''the operations or activities of the government'';

(ii) *The informative value of the information to be disclosed*. Whether the disclosure is ''likely to contribute'' to an understanding of government operations or activities;

(iii) *The contribution to an understanding of the subject by the general public likely to result from disclosure*. Whether disclosure of the requested information will contribute to ''public understanding'';

(iv) *The significance of the contribution to public understanding*. Whether disclosure is likely to contribute ''significantly'' to public understanding of government operations or activities;

(v) *The existence and magnitude of a commercial interest*. Whether the requestor has a commercial interest that would be furthered by the disclosure; and if so

(vi) *The primary interest in disclosure*. Whether the magnitude of the identified commercial interest of the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.''

(e) *Assessment and collection of fees*. (1) Interest will accrue from the date the bill is mailed if the fee is not paid within thirty (30) days. Interest will be assessed at the rate prescribed in 31 U.S.C. 3717.

(2) If the agency reasonably believes that a requestor(s) is making multiple requests to avoid the assessment of fees, the agency may aggregate such requests and charge accordingly.

(3) The agency may request an advance payment of the fee if

(i) The allowable charges are likely to exceed $250; or

(ii) The requestor has failed previously to pay a fee in a timely fashion.

(4) When the agency requests an advance payment, the time limits prescribed in section (a)(6) of the Freedom of Information Act will begin only after the agency has received full payment.

§ 1100.7 Foundation report of actions.

On or before March 1 of each calendar year, the National Endowment for the Arts shall submit a report of its activities with regard to public information